

Senate Bill No. 211

Passed the Senate September 2, 2003

Secretary of the Senate

Passed the Assembly August 28, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Article 9 (commencing with Section 1569.880) to Chapter 3.2 of Division 2 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 211, Dunn. Residential care facilities for the elderly: admission agreements.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services, including, among other things, regulation of admissions procedures and agreements. A violation of the provisions relating to residential care facilities for the elderly is a misdemeanor.

This bill would specify requirements for the form and content of admission agreements, as defined, for residential care facilities for the elderly, and would require a facility to conspicuously post a copy of its agreement within the facility. The bill would require the admission agreement to include, among other things, a comprehensive description of any items and services provided, an explanation of 3rd-party services, information relating to residents' rights, and information relating to billing and payment, term of contract, refunds, and termination of the agreement.

This bill would prohibit an admission agreement from including grounds for involuntary transfer or eviction that are inconsistent with state law. The bill would require the admission agreement to be signed and dated by the resident or the resident's representative, and would require the original agreement and all subsequent modifications to be placed in the resident's file. The bill would also require a copy of the signed and dated admission agreement to be given to the resident or the resident's representative.

This bill would provide that its requirements are intended to be in addition to, and not exclusive of, any other requirements established by law or regulation with respect to admission agreements for residential care facilities for the elderly.

By creating a new crime, this bill would impose a state-mandated local program.



The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that it is in the best interest of the residents of residential care facilities for the elderly to ensure that admission agreements used by these facilities do not violate residents' rights.

(b) Therefore, it is the intent of the Legislature in enacting this act to establish laws to protect the rights of the residents in residential care facilities for the elderly and to provide the residents with the information necessary to make informed choices regarding admission agreements in these facilities.

SEC. 2. Article 9 (commencing with Section 1569.880) is added to Chapter 3.2 of Division 2 of the Health and Safety Code, to read:

Article 9. Admission Agreements

1569.880. (a) For purposes of this section, an "admission agreement" includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.

(b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.

1569.881. (a) Every residential care facility for the elderly shall make blank complete copies of its admission agreement available to the public immediately, subject to time required for copying or mailing, at cost, upon request.

(b) Every residential care facility for the elderly shall conspicuously post in a location accessible to the public view within the facility either a complete copy of the admission agreement, or a notice of its availability from the facility.



1569.882. (a) The admission agreement shall be printed in black type of not less than 12-point type size, on plain white paper. The print shall appear on one side of the paper only.

(b) The admission agreement shall be written in clear, coherent, and unambiguous language, using words with common and everyday meanings. It shall be appropriately divided, and each section shall be appropriately captioned.

1569.883. (a) The admission agreement shall not include unlawful waivers of facility liability for the health and safety or personal property of residents.

(b) The admission agreement shall not include any provision that the facility knows or should know is deceptive, or unlawful under state or federal law.

1569.884. The admission agreement shall include all of the following:

(a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.

(b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.

(c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the resident or the resident's representative and attached to the admission agreement.

(d) An explanation of the use of third-party services within the facility that are related to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.

(e) A comprehensive description of billing and payment policies and procedures.



(f) The conditions under which rates may be increased pursuant to Section 1569.655.

(g) The facility's policy concerning family visits and other communication with residents, pursuant to Section 1569.313.

(h) The facility's policy concerning refunds.

(i) Conditions under which the agreement may be terminated.

1569.885. (a) When referring to a resident's obligation to observe facility rules, the admission agreement shall indicate that the rules must be reasonable, and that there is a facility procedure for suggesting changes in the rules. A facility rule shall not violate any right set forth in this article or in other applicable laws and regulations.

(b) The admission agreement shall specify that a copy of the facility grievance procedure for resolution of resident complaints about facility practices shall be made available to the resident or his or her representative.

(c) The admission agreement shall inform a resident of the right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.

(d) A copy of any applicable resident's rights specified by law or regulation shall be an attachment to all admission agreements.

1569.886. (a) The admission agreement shall not include any ground for involuntary transfer or eviction of the resident unless those grounds are specifically enumerated under state law or regulation.

(b) The admission agreement shall list the justifications for eviction permissible under state law or regulation, exactly as they are worded in the applicable law or regulation.

(c) The admission agreement shall include an explanation of the resident's right to notice prior to an involuntary transfer, discharge, or eviction, the process by which the resident may appeal the decision and a description of the relocation assistance offered by the facility.

1569.887. (a) The admission agreement shall be signed and dated, acknowledging the contents of the document, by the resident or the resident's representative.

(b) The licensee shall retain in the resident's file the original signed and dated initial agreement and all subsequent modifications.



(c) The licensee shall provide a copy of the signed and dated admission agreement to the resident or the resident's representative, if any.

(d) The admission agreement shall be reviewed at the time of the compliance visit and in response to a complaint involving the admission agreement.

1569.888. (a) The requirements of this article relating to admission agreements for residential care facilities for the elderly are intended to be in addition to, and not exclusive of, any other requirements established by state law or regulation.

(b) This article shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2003

Governor

